

AUSA: Diarra M. Guthrie

24 MAG 169

UNITED STATES OF AMERICA

v.

RODERICK MCBAIN,

Defendant.

SEALED COMPLAINT

Violation of 18 U.S.C. §§ 844(i)
and 970(a)

COUNTY OF OFFENSE:
NEW YORK

SOUTHERN DISTRICT OF NEW YORK, ss.:

MARC KAVY, being duly sworn, deposes and says that he is a Detective with the New York City Police Department ("NYPD"), and charges as follows:

COUNT ONE

(Damaging Property Occupied by Foreign Government)

1. On or about December 17, 2023, in the Southern District of New York and elsewhere, RODERICK MCBAIN, the defendant, knowingly and willfully injured, damaged, and destroyed, and attempted to injure, damage, and destroy, property, real and personal, located within the United States and belonging to and utilized and occupied by a foreign government and international organization, by a foreign official and official guest, to wit, MCBAIN started multiple fires outside the building housing the Greek Consulate General in New York, New York.

(Title 18, United States Code, Section 970(a).)

COUNT TWO

(Damaging Property by Means of Fire)

2. On or about December 17, 2023, in the Southern District of New York and elsewhere, RODERICK MCBAIN, the defendant, maliciously damaged, destroyed, and attempted to damage and destroy, by means of fire and an explosive, a building, vehicle, and other real and personal property used in interstate and foreign commerce, to wit, MCBAIN started multiple fires outside the building housing the Greek Consulate General in New York, New York.

(Title 18, United States Code, Section 844(i).)

The bases for my knowledge and the foregoing charges are, in part, as follows:

3. I am a Detective with the NYPD and have been personally involved in the investigation of this matter. I base this affidavit on my participation in the investigation, as well as on my conversations with other law enforcement agents and other individuals, my examination of various reports, recordings, photographs, and records, and my training and experience. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the

contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Overview of the Arson

4. As set forth in greater detail below, on or about December 17, 2023, at approximately 4:30 a.m., RODERICK MCBAIN, the defendant, set fire to the outside of the building housing the Greek Consulate General, located in New York, New York (the “Greek Consulate Building”). Specifically, MCBAIN left his apartment building in Brooklyn, New York (the “Brooklyn Apartment Building”) at approximately 3:10 a.m.; traveled by subway to the vicinity of the Greek Consulate Building, where he arrived at approximately 4:30 a.m.; set fire to planters in front of the Greek Consulate Building (the “Arson”); fled from the scene; and traveled by subway back to the vicinity of the Brooklyn Apartment Building, where he returned to his apartment at approximately 5:42 a.m. *See infra* ¶¶ 5-10. A still image from surveillance footage of MCBAIN committing the Arson is shown below:



MCBAIN Leaves His Apartment and Travels by Subway to the Greek Consulate Building

5. As set forth in greater detail below, I have learned that on or about December 17, 2023, an individual (the “Suspect”), later identified as RODERICK MCBAIN, the defendant, left his residence in the Brooklyn Apartment Building at approximately 3:10 a.m., dressed in a green and brown camouflage jacket, blue jeans, tan boots, and a dark cap and carrying a black tote bag. *See infra* ¶¶ 6 (a)-(b). MCBAIN then proceeded to walk to a subway station, get on the subway, and take the subway to the vicinity of the Greek Consulate Building. *See infra* ¶¶ 6(c)-(e).

6. Based on my review of reports, recordings, photographs, and records, and my conversations with other law enforcement officers, I have learned, among other things, that:

a. NYPD officers obtained images, as captured on or about December 17, 2023, at approximately 3:07 a.m. (i.e., less than an hour and a half before the Arson), from surveillance footage at the Brooklyn Apartment Building (the “Brooklyn Apartment Building Surveillance Images”). Based on my review of those images, they appear to depict the Suspect taking the elevator from the fifth floor of the Brooklyn Apartment Building to the ground floor, while wearing a green and brown camouflage jacket, blue jeans, tan boots, and a dark cap and

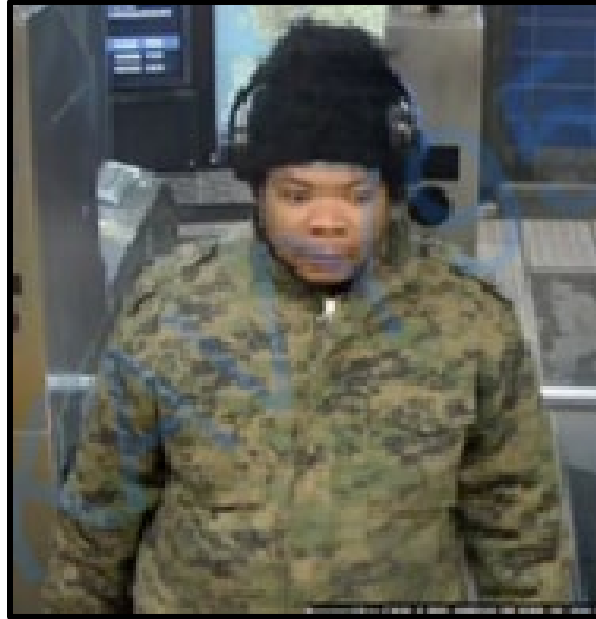
carrying a black tote bag. An example of such an image is depicted below:



b. Based on my review of Brooklyn Apartment Building Surveillance Images captured at approximately 3:10 a.m., the Suspect appears to be exiting the Brooklyn Apartment Building. Examples of three such images are depicted below:



c. NYPD officers obtained images, as captured on or about December 17, 2023, at approximately 3:17 a.m., from surveillance footage at a subway station in Brooklyn, New York (the “Brooklyn Subway Station”). Based on my review of those images, it appears that the Suspect entered the subway station and walked through a turnstile at approximately 3:17 a.m., as shown in the image below:



d. NYPD officers obtained images, as captured on or about December 17, 2023, at approximately 4:16 a.m., from surveillance footage at a subway station at or around 77th Street and Lexington Avenue in New York, New York (the “UES Subway Station”). Based on my review of those images, it appears that the Suspect exited the train and then proceeded to exit the UES Subway Station, as shown in the image below:



e. NYPD officers obtained images, as captured on or about December 17, 2023, at approximately 4:30 a.m., from surveillance footage at and around the Greek Consulate Building. Based on my review of those images, it appears the Suspect was walking around the exterior of the Greek Consulate Building, as shown in the image below:



7. Based on my participation in this investigation and my review of reports, recordings, photographs (including publicly available photographs of the Greek Consulate Building), and records, including my review of surveillance video, I have learned that:

a. Consular buildings such as the Greek Consulate Building, typically display flags (such as national flags) at the building entrance, among other places.

b. Based on my review of publicly available photographs of the Greek Consulate Building, such as the image below, and my participation in this investigation, there were such flags displayed in front of the Greek Consulate Building at or around the time of the Arson:



MCBAIN Sets Fire to the Exterior of the Greek Consulate Building

8. As set forth below, *see infra* ¶¶ 8(a)-(c), after RODERICK MCBAIN, the defendant, arrived at the Greek Consulate Building, he proceeded to set fire to planters on the sidewalk in front of the building.

9. Based on my participation in this investigation and my review of reports, recordings, photographs, and records, including my review of surveillance video, I have learned, among other things, the following:

c. As captured by surveillance video, on or about December 17, 2023, at approximately 4:30 a.m., the Suspect approached the Greek Consulate Building. As described above, *see supra* ¶¶ 5-6, the Suspect was wearing the same clothing as when he left his residence in the Brooklyn Apartment Building, that is, a green and brown camouflage jacket, a light green shirt with white letters and a red emblem, blue jeans, tan boots, and a dark cap.

d. Upon arriving at the Greek Consulate Building, the Suspect poured a liquid on the planters outside of the Greek Consulate Building. Still images from surveillance footage depicting the same are below:





e. Thereafter, the Suspect took pieces of newspaper and laid them on multiple planters outside the entrance to the Greek Consulate Building. The Suspect lit each of the pieces of newspaper on fire before fleeing the scene. Still images from surveillance footage depicting the Suspect lighting the pieces of newspaper, and the ensuing fire, are below:





MCBAIN Travels Back to His Apartment by Subway

10. As set forth below, *see infra* ¶¶ 10(a)-(e), after RODERICK MCBAIN, the defendant, set fire to the Greek Consulate Building, he proceeded to travel by subway back to his residence at the Brooklyn Apartment Building.

11. Based on my participation in this investigation and my review of reports, recordings, photographs, and records, including my review of surveillance video, I have learned, among other things, the following:

a. NYPD officers obtained images, as captured on or about December 17, 2023, at approximately 4:38 a.m. (i.e., within minutes of the Arson), from surveillance footage in the vicinity of the Greek Consulate Building, which shows the Suspect walking down the street following his commission of the Arson. A still image of the surveillance footage from within the vicinity of the Greek Consulate Building is depicted below:



b. NYPD officers obtained images, as captured on or about December 17, 2023, at approximately 4:39 a.m., from surveillance footage at the UES Subway Station showing the Suspect entering the station and jumping the turnstile. Still images of the surveillance footage from the UES Subway Station are depicted below:



c. NYPD officers obtained images, as captured on or about December 17, 2023, at approximately 5:34 a.m., from surveillance footage at the Brooklyn Subway Station

showing the Suspect exiting the train. A still image of the surveillance footage from the Brooklyn Subway Station is depicted below:



d. NYPD officers obtained images, as captured on or about December 17, 2023, at approximately 5:40 a.m., from surveillance footage at the Brooklyn Apartment Building, in which the Suspect took keys out of his pocket and used the keys to open the front door to the Brooklyn Apartment Building. A still image of the surveillance footage from the Brooklyn Apartment Building is depicted below:



e. NYPD officers obtained images, as captured on or about December 17, 2023, at approximately 5:42 a.m., from surveillance footage at the Brooklyn Apartment Building, in which the Suspect exits the elevator on the fifth floor of the Brooklyn Apartment Building. A still image of the surveillance footage from the Brooklyn Apartment Building is depicted below:



Identification of the Suspect as MCBAIN

12. Based on my review of law enforcement reports and records, my conversations with other law enforcement officers, and an interview with a witness (the “Witness”) who has known RODERICK MCBAIN, the defendant, for several years, I have learned that:

a. On or about December 26, 2023, law enforcement officers spoke with the Witness. Law enforcement officers showed the Witness surveillance footage from the Brooklyn Apartment Building before and after Arson, *see supra* ¶¶ 6 and 10, and the Witness positively identified the individual in the surveillance footage (i.e., the Suspect) as “Roderick McBain.”

b. Thereafter, law enforcement officers showed the Witness a photograph of MCBAIN from a law enforcement database, and the Witness again positively identified the individual in the photograph as “Roderick McBain.” The photograph of MCBAIN from a law enforcement database, which was shown to the Witness, is depicted below:



13. Based on my review of law enforcement reports and records, conversations with other law enforcement officers, and my participation in this investigation, I have learned that RODERICK MCBAIN, the defendant, has a valid New York State identification card, which lists his address as being an apartment on the fifth floor of the Brooklyn Apartment Building (i.e., the same location MCBAIN returned to after committing the Arson).

14. Below is a photograph of RODERICK MCBAIN, the defendant, from his criminal history report, alongside still images from surveillance footage of MCBAIN from the Brooklyn Subway Station before and after commission of the Arson.



Photograph from
Criminal History Report



Surveillance Footage Before
the Arson



Surveillance Footage After
the Arson

15. In sum, as set forth herein, based on my review of law enforcement records and reports, photographs of RODERICK MCBAIN, the defendant, in law enforcement records, surveillance footage from the Greek Consulate Building, surveillance footage from the Brooklyn Subway Station and the UES Subway Station, surveillance footage from the Brooklyn Apartment Building, and street camera footage, among other things, I believe that the Suspect is the same person as RODERICK MCBAIN.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of RODERICK MCBAIN, the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.


s/ Marc Kavy by the Court with permission.

MARC KAVY

Detective

New York City Police Department

Sworn to me through the transmission of this Affidavit
by reliable electronic means, pursuant to
Federal Rules of Criminal Procedure 41(d)(3) and 4.1, this
12th day of January, 2024


THE HONORABLE ROBYN F. TARNOFSKY
United States Magistrate Judge
Southern District of New York